

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ALASKA

UNITED STATES OF AMERICA,  
Plaintiff,

vs.

SHANNON K. BROWN,  
Defendant.

Case No. 3:03-cr-00159-JKS

ORDER

Shannon Brown embezzled almost \$60,000 from her employer and eventually plead guilty. She was sentenced to a probationary term, which included a period of house arrest as a condition. She appealed her sentence and the Ninth Circuit remanded, in conformity with *United States v. Ameline*, 409 F.3d 1073, 1085 (9th Cir. 2005) (en banc). The Court has asked the parties to comment, and they have done so.

The Government argues that the advisory nature of the Guidelines would not have affected the sentence. Brown argues that but for the Guidelines she would have received a sentence of straight probation free of a home confinement condition. *See United States v. Booker*, 125 S.Ct. 738 (2005). The Court has carefully considered the record and is convinced that the Guidelines helped, rather than hindered, Brown. The Guidelines permitted a particularly lenient sentence for Brown. Looking only to the criteria set out in 18 U.S.C. § 3553(a) (retribution, deterrence, rehabilitation, and isolation), a prison sentence of up to four or five years out of a maximum sentence of ten years could have been justified. A Guideline sentence of six to twelve months, given all of the mitigating factors advanced by Brown, would have been lenient. Brown in fact received an even more lenient sentence. There would be no basis for reducing that sentence.

Consequently, the Court has determined that it would not have imposed a materially different sentence had it known that the Guidelines were advisory. The sentence stands, subject to appellate review under the *Booker* reasonableness standard.

**IT IS SO ORDERED.**

Dated at Anchorage, Alaska, this 9th day of March 2006.

/s/ James K. Singleton, Jr.

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**JAMES K. SINGLETON, JR.**  
United States District Judge

ORDER

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